

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to limited English proficiency

The State Board of Education hereby amends Chapter 60, “Programs for Students of Limited English Proficiency,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 605.

Purpose and Summary

This rule making implements 2021 Iowa Acts, House File 605, which creates two levels of weighting for students who are English learners.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 25, 2021, as **ARC 5876C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on November 17, 2021.

Fiscal Impact

This rule making has a fiscal impact to the State, according to the Legislative Services Agency’s analysis of House File 605. The estimated fiscal impact is between \$84,000 and \$97,000.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 19, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule **281—60.2(280)**, definitions of “Fully English proficient” and “Limited English proficient,” as follows:

“Fully English proficient” refers to a student who ~~is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom~~ has attained a level of English language skill in reading, writing, listening, and speaking to be proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency as required by Section 1111 of the federal Elementary and Secondary Education Act of 1965 as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95.

“Limited English proficient” refers to a student who has a language background other than English, and the student’s proficiency in English is such that the probability of the student’s academic success in an English-only classroom is below that of an academically successful peer with an English language background. Each limited English proficient student shall be identified as either an intensive student or an intermediate student.

ITEM 2. Adopt the following new definitions of “Intensive student” and “Intermediate student” in rule **281—60.2(280)**:

“Intensive student” means a limited English proficient student who, even with support, is not proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

“Intermediate student” means a limited English proficient student who, either with or without support, approaches being proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

ITEM 3. Amend paragraph **60.6(1)“a”** as follows:

a. A student may be included for weighting if the student meets the definition of a limited English proficient student as either an intensive student or an intermediate student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.

[Filed 11/17/21, effective 1/19/22]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/15/21.